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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,872	10/21/2003	Edwin J. Hlavka	0185/0778-US1	3330
76808	7590	10/08/2010		
Leason Ellis LLP 81 Main Street Suite 503 White Plains, NY 10601			EXAMINER PRONE, CHRISTOPHER D	
			ART UNIT	PAPER NUMBER
			3738	
			MAIL DATE	DELIVERY MODE
			10/08/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/689,872	<b>Applicant(s)</b> HLAVKA ET AL.	
	<b>Examiner</b> CHRISTOPHER D. PRONE	<b>Art Unit</b> 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 79-83 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 79-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/8/10 has been entered.

### ***Information Disclosure Statement***

This is the **THIRD NOTICE** that the applicant's failed to address the examiner's requests with respect to the prior IDS filed. **IF THE APPLICANT FAILS TO ADDRESS THIS REQUEST THE RESPONSE WILL BE CONSIDERED NOT FULLY RESPONSIVE.** Instead of addressing the overly burdensome list of references, the applicant has filed additional IDS containing even more references for consideration.

The examiner maintains that the applicant should note that the large number of references in the attached IDS have been considered by the examiner in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the prior art in a proper field of search. **See MPEP 609.05(b).** Applicant is requested to point out any particular references in the IDS which they believe may be of particular relevance to the instant claimed invention in response to this office action.

***Status of Claims***

Claims 1-78 have been cancelled.

Claims 79-83 are pending.

***Priority Date***

The priority date of this application dates back to provisional application 60420095, filed 10/21/02.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 79-83 are rejected under 35 U.S.C. 103 as being unpatentable over Koike et al (Koike) USPN 5,716,367 in view of Makower et al (Makower) USPN 6,071,292.

Koike discloses the invention substantially as claimed being a catheter assembly comprising a central lumen defined by a sidewall and a distal portion comprising a tip and an opening 11 spaced proximal from the tip in the side wall extending through to the central lumen. Koike further discloses an anchor delivery structure comprising a locking element is capable of being slidably / adjustably coupled to an anchor or a tensile member. The catheter of Koike can be bent or rotated to move from a position

Art Unit: 3738

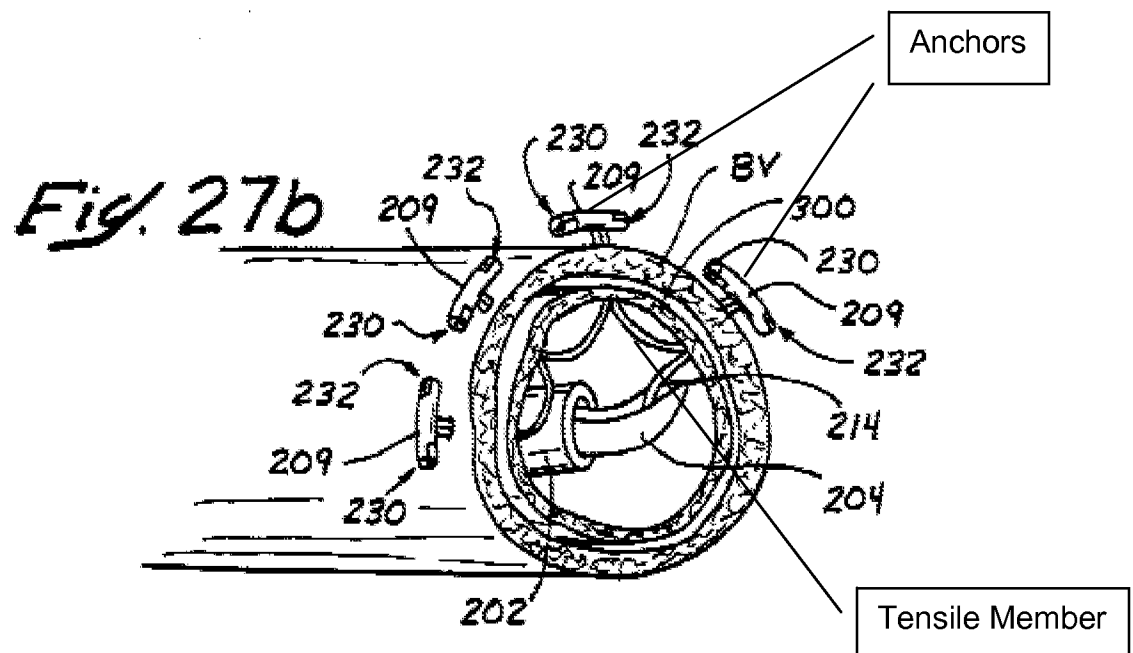
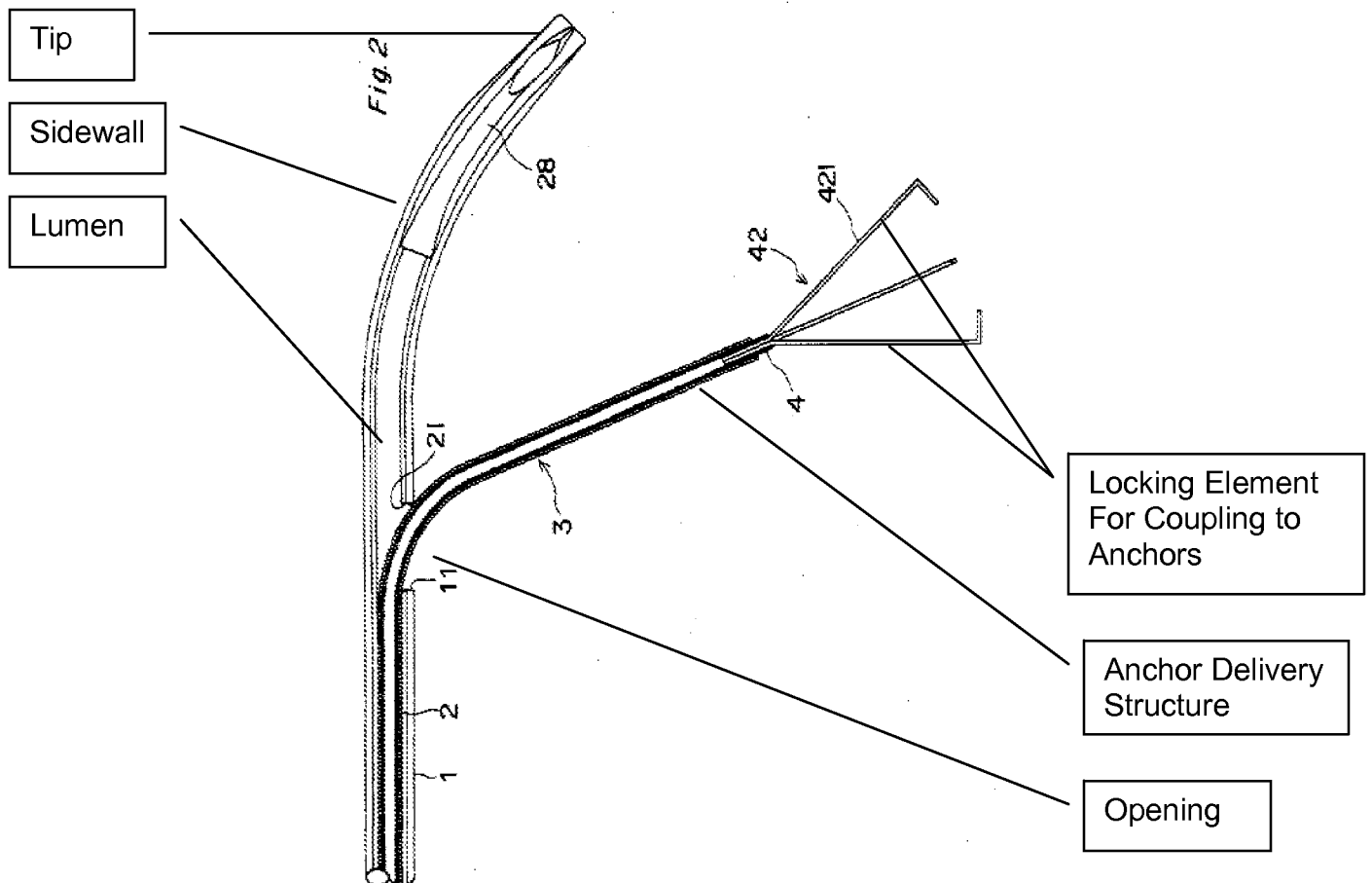
that adapts to the shape of the operation to a position where it does not adapt to the shape of the operation site. See first figure below for details.

However, Koike does not disclose use of a plurality of anchors interconnected by a tensile member.

Makower teaches the use of an anchor delivery system comprising a catheter that implants a plurality of anchors connected by a tensile member shown best in figure in the same field of endeavor for the purpose of allowing the operator to accurately arrange two separate points of tissue in a desired configuration.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the delivery device of Koike with the anchors and tensile member of Makower in order to allow the operator to secure a plurality of tissue points together into a desired configuration.

Art Unit: 3738



***Response to Arguments***

Applicant's arguments with respect to claims 79-83 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER D. PRONE whose telephone number is (571)272-6085. The examiner can normally be reached on Monday through Fri 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3738

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher D Prone  
Examiner  
Art Unit 3738

/Christopher D Prone/

/Corrine M McDermott/  
Supervisory Patent Examiner, Art Unit 3738